

ADJOURNMENT.

Mr. ANTHONY. I suppose that there is no probability of receiving a message from the House until very late, if at all, to-day, and I see no impropriety in the Senate adjourning.

Mr. CONKLING and others. Let us adjourn.

Mr. ANTHONY. If there be no objection, I will make that motion. I move that the Senate do now adjourn.

The motion was agreed to; and (at twelve o'clock and forty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, December 6, 1875.

This being the day prescribed by the Constitution for the meeting of Congress, the members-elect of the House of Representatives for the Forty-fourth Congress assembled in their Hall, and at twelve o'clock m. were called to order by Hon. EDWARD McPHERSON, Clerk of the last House of Representatives.

The CLERK. The hour for the meeting of the Forty-fourth Congress of the United States has arrived, and the Clerk of the House of Representatives of the Forty-third Congress will proceed, in conformity with law, to call the roll of Representatives-elect. Gentlemen will please answer as their names are called.

The roll was then called, and the following members answered to their names:

JOHN H. BURLEIGH.	MAINE.	HARRIS M. PLAISTED.
WILLIAM P. FRYE.		EUGENE HALE.
JAMES G. BLAINE.		
FRANK JONES.	NEW HAMPSHIRE.	HENRY W. BLAIR.
SAMUEL N. BELL.		
CHARLES H. JOYCE.	VERMONT.	GEORGE W. HENDEE.
DUDLEY C. DENISON.		
WILLIAM W. CRapo.	MASSACHUSETTS.	JOHN K. TARBOX.
BENJAMIN W. HARRIS.		WILLIAM WIRT WARREN.
HENRY L. PIERCE.		GEORGE F. HOAR.
RUFUS S. FROST.		JULIUS H. SEELYE.
NATHANIEL P. BANKS.		CHESTER W. CHAPIN.
CHARLES P. THOMPSON.		
BENJAMIN T. EAMES.	RHODE ISLAND.	LATIMER W. BALLON.
GEORGE M. LANDERS.	CONNECTICUT.	HENRY H. STARKWEATHER.
JAMES PHELPS.		WILLIAM H. BARNUM.
HENRY B. METCALFE.	NEW YORK.	MARTIN I. TOWNSEND.
JOHN G. SCHUMAKER.		ANDREW WILLIAMS.
SIMEON B. CHITTENDEN.		WILLIAM A. WHEELER.
ARCHIBALD M. BLISS.		HENRY H. HATHORN.
EDWIN R. MEADE.		SAMUEL F. MILLER.
SAMUEL S. COX.		GEORGE A. BAGLEY.
SMITH ELY, JR.		SCOTT LORD.
ELIJAH WARD.		WILLIAM H. BAKER.
FERNANDO WOOD.		ELIAS W. LEAVENWORTH.
ABRAM S. HEWITT.		CLINTON D. MACDONGALL.
BENJAMIN A. WILLIS.		ELBRIDGE G. LAPHAM.
N. HOLMES ODELL.		THOMAS C. PLATT.
JOHN O. WHITEHOUSE.		CHARLES C. B. WALKER.
GEORGE M. BEEBE.		JOHN M. DAVY.
JOHN H. BAGLEY, JR.		GEORGE G. HOSKINS.
CHARLES H. ADAMS.		LYMAN K. BASS.
CLEMENT H. SINNICKSON.	NEW JERSEY.	AUGUSTUS W. CUTLER.
MILES ROSS.		FREDERICK H. TEESE.
ROBERT HAMILTON.		AUGUSTUS A. HARDENBERGH.
CHAPMAN FREEMAN.	PENNSYLVANIA.	JOHN B. PACKER.
CHARLES O'NEILL.		JOSEPH POWELL.
SAMUEL J. RANDALL.		SOBIESKI ROSS.
WILLIAM D. KELLEY.		JOHN REILLY.
JOHN ROBBINS.		WILLIAM S. STENGER.
WASHINGTON TOWNSEND.		LEVI MAISH.
ALAN WOOD, JR.		LEVI A. MACKAY.
HESTER CLYMER.		JACOB TURNEY.
A. HERR SMITH.		JAMES H. HOPKINS.
WILLIAM MUECHLER.		ALEXANDER G. COCHRANE.
FRANCIS D. COLLINS.		JOHN W. WALLACE.
WINTHROP W. KETCHUM.		GEORGE A. JENKS.
JAMES B. REILLY.		JAMES SHEAKLEY.
PHILIP F. THOMAS.	DELAWARE.	THOMAS SWANN.
CHARLES B. ROBERTS.		ELI J. HENKLE.
WILLIAM J. O'BRIEN.	MARYLAND.	WILLIAM WALSH.
BEVERLY B. DOUGLAS.	VIRGINIA.	JOHN RANDOLPH TUCKER.
JOHN GOODE, JR.		JOHN T. HARRIS.
GILBERT C. WALKER.		EPHRAIM HUNTON.
WILLIAM H. H. STOWELL.		WILLIAM TERRY.
GEORGE C. CABELL.		
JESSE J. YEATES.	NORTH CAROLINA.	ALFRED M. SCALES.
JOHN A. HYMAN.		THOMAS S. ASHE.
ALFRED M. WADDELL.		WILLIAM M. ROBBINS.
JOSEPH J. DAVIS.		ROBERT B. VANCE.

SOUTH CAROLINA.

JOSEPH H. RAINEY.
EDMUND W. M. MACKAY.
SOLOMON L. HOGE.

GEORGIA.

MILTON A. CANDLER.
JAMES H. BLOUNT.
WILLIAM H. FELTON.
BENJAMIN H. HILL.

ALABAMA.

JOHN H. CALDWELL.
GOLDSMITH W. HEWITT.
BURWELL B. LEWIS.
WILLIAM H. FORNEY.

MISSISSIPPI.

OTHO R. SINGLETON.
CHARLES E. HOOKER.
JOHN R. LYNCH.

LOUISIANA.

WILLIAM M. LEVY.
FRANK MOREY.
CHARLES E. NASH.

OHIO.

JOHN L. VANCE.
ANSEL T. WALLING.
MILTON I. SOUTHARD.
JACOB P. COWAN.
NELSON H. VAN VORHES.
LORENZO DANFORD.
LAURIN D. WOODWORTH.
JAMES MONROE.
JAMES A. GARFIELD.
HENRY B. PAYNE.

KENTUCKY.

THOMAS L. JONES.
JOSEPH C. S. BLACKBURN.
MILTON J. DURHAM.
JOHN D. WHITE.
JOHN B. CLARKE.

TENNESSEE.

WASHINGTON C. WHITTHORNE.
JOHN D. C. ATKINS.
WILLIAM P. CALDWELL.
H. CASEY YOUNG.

INDIANA.

MORTON C. HUNTER.
THOMAS J. CASON.
WILLIAM S. HAYMOND.
JAMES L. EVANS.
ANDREW H. HAMILTON.
JOHN H. BAKER.

ILLINOIS.

SCOTT WIKE.
WILLIAM M. SPRINGER.
ADLAI E. STEVENSON.
JOSEPH G. CANNON.
JOHN R. EDEN.
W. A. J. SPARKS.
WILLIAM R. MORRISON.
WILLIAM HARTZELL.
WILLIAM B. ANDERSON.

MISSOURI.

BENJAMIN J. FRANKLIN.
DAVID REA.
REZIN A. DEBOLT.
JOHN B. CLARK, JR.
JOHN M. GLOVER.
AYLETT H. BUCKNER.

ARKANSAS.

WILLIAM W. WILSHIRE.
THOMAS M. GUNTER.

MICHIGAN.

GEORGE WILLARD.
ALLEN POTTER.
NATHAN B. BRADLEY.
JAY A. HUBBELL.

FLORIDA.

WILLIAM J. PURMAN.

TEXAS.

ROGER Q. MILLS.
JOHN HANCOCK.
GUSTAVE SCHLEICHER.

IOWA.

EZEKIEL S. SAMPSON.
JOHN A. KASSON.
JAMES W. MCDILL.
ADDISON OLIVER.

WISCONSIN.

SAMUEL D. BURCHARD.
ALANSON M. KIMBALL.
JEREMIAH M. RUSK.
GEORGE W. CATE.

CALIFORNIA.

JOHN K. LUTTRELL.
PETER D. WIGGINTON.

MINNESOTA.

WILLIAM S. KING.

OREGON.

LAFAYETTE LANE.
KANSAS.
WILLIAM R. BROWN.

WEST VIRGINIA.

FRANK HEREFORD.
WILLIAM A. PHILLIPS.
JOHN R. GOODIN.
BENJAMIN WILSON.
CHARLES J. FAULKNER.

NEVADA.
William Woodburn.
NEBRASKA.
Lorenzo Crounse.

The following members failed to answer to their names:

SAMUEL A. DOBBINS, of New Jersey; ALBERT G. EGBERT, of Pennsylvania; ALEXANDER H. STEPHENS, of Georgia; and ADDISON OLIVER, of Iowa.

Mr. MACKEY, of Pennsylvania, stated that his colleague [Mr. EGBERT] had gone home on account of a death in his family.

When the thirty-third district of New York was reached,

The CLERK said: For the thirty-third district of New York the vacancy on the roll, caused by the death of the gentleman originally returned, has not been filled. The action of the State board of canvassers upon the returns of the late election has been received at the Clerk's office, but, being of unusual form, is submitted for the action of the House.

When the State of Louisiana was reached,

The CLERK said: Respecting Louisiana, the Clerk begs to say that he has received two sets of certificates as to the first five districts—one signed by William Pitt Kellogg as governor of Louisiana, the other signed by John McEnery as governor of Louisiana. The Kellogg certificates were all received by the Clerk prior to the adjournment of the Forty-third Congress. One of the McEnery certificates was also received during that session; the others at different dates during the last summer and fall. The two sets of certificates agree in declaring the same persons elected in the first, second, third, and fourth districts. In the fifth, the Kellogg certificate declares Mr. Frank Morey elected; the McEnery certificate declares Mr. William B. Spencer elected. As to the sixth district, no McEnery certificate has been presented. The Kellogg certificate declares Mr. Charles E. Nash elected. The Clerk has enrolled all the gentlemen bearing the Kellogg certificates as coming from the *de facto* governor recognized by the last House of Representatives.

At the close of the call,

The CLERK said: Two hundred and eighty-six members having answered to their names, and that being more than a quorum, the Clerk is now ready to receive a motion to proceed to the election of Speaker.

Mr. LAMAR. I move that the House do now proceed to the election of Speaker, preparatory to the organization of the House.

The motion was agreed to.

Mr. JONES, of Kentucky. Mr. Clerk, I hope the rules of the House as to the privileges of the floor will be rigidly enforced. There are a number of members-elect standing in the aisles who cannot obtain seats to which they are entitled.

The CLERK. The Doorkeeper of the House will enforce the rules, and all persons not entitled to the privileges of the floor will please retire from the Hall. The persistence of persons not entitled to the privileges of the floor who occupy places in the rear of the seats is a great impropriety, in violation of the rules of the House. They will please retire and give gentlemen having the right to the Hall their full privilege.

Mr. GARFIELD. Mr. Clerk, the trouble is that a number of seats are occupied by those not entitled to the floor, and that, too, while there are members-elect of this House who have no chairs in which to sit down.

The CLERK. That is a still grosser violation of the rules of the House than occupying places in the rear of the seats. Members-elect are entitled to occupy chairs in the Hall, which are limited to the number of Representatives-elect.

Nominations are now in order for Speaker.

Mr. LAMAR. I place in nomination for the office of Speaker of this House for the Forty-fourth Congress MICHAEL C. KERR, member-elect from the State of Indiana.

Mr. WHEELER. I nominate for the same position Hon. JAMES G. BLAINE, of Maine.

The CLERK. There being no further nominations, the Clerk requests that Mr. HOLMAN of Indiana, Mr. CLYMER of Pennsylvania, Mr. DANFORD of Ohio, and Mr. BANKS of Massachusetts, will please act as tellers. The tellers will please take their places.

The House then proceeded to vote *viva voce* for Speaker, with the following result, which was announced by Mr. HOLMAN on behalf of the tellers:

Whole number of votes cast, 282; necessary to a choice, 142; of which—

MICHAEL C. KERR received	173
JAMES G. BLAINE received	106
ALEXANDER CAMPBELL received	1
WILLIAM B. ANDERSON received	1
ALPHEUS S. WILLIAMS received	1

The following is the vote in detail:

For Mr. Kerr—Messrs. Ainsworth, Ashe, Atkins, Bagby, John H. Bagley, jr., Banning, Barnum, Beebe, Bell, Blackburn, Bland, Bliss, Blount, Boone, Bradford, Bright, John Young Brown, Buckner, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Candler, Cate, Caulfield, Chapin, John B. Clarke, John B. Clark, jr., Clymer, Cochran, Collins, Cook, Cowan, Cox, Culbertson, Cutler, Davis, DeBolt, Dibrell, Douglas, Durand, Durham, Eden, Ellis, Ely, Faulkner, Felton, Forney, Franklin, Fuller, Gause, Gibson, Glover, Goode, Goodin, Gunter, Andrew H. Hamilton, Robert Hamilton, Hancock, Hardenbergh, Henry R. Harris,

John T. Harris, Harrison, Hartridge, Hartzell, Hatcher, Haymond, Henkle, Hereford, Abram S. Hewitt, Goldsmith W. Hewitt, Hill, Holman, Hooker, Hopkins, House, Hunton, Hurd, Jenks, Frank Jones, Thomas L. Jones, Kehr, Knott, Lamar, George M. Landers, Lane, Levy, Lewis, Lord, Luttrell, Lynde, Levi A. Mackey, Maish, McFarland, McMahon, Meade, Metcalfe, Milliken, Mills, Money, Morgan, Morrison, Mutchler, Neal, New, O'Brien, O'Dell, Parsons, Payne, Phelps, John F. Phillips, Piper, Poppleton, Potter, Powell, Randall, Rea, Reagan, John Reilly, James B. Reilly, Rice, John Robbins, William M. Robbins, Roberts, Miles Ross, Savage, Saylor, Scales, Schleicher, Schumaker, Sheakley, Singleton, Stemmmons, William E. Smith, Southard, Sparks, Springer, Stenger, Stevenson, Stone, Swann, Tarbox, Teese, Terry, Thompson, Thomas, Throckmorton, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Charles C. B. Walker, Gilbert C. Walker, Walling, Walsh, Ward, Warren, Erastus Wells, Whitehouse, Whitthorne, Wigginton, Wike, Alpheus S. Williams, James Williams, James D. Williams, Jeremiah N. Williams, Willis, Wilshire, Benjamin Wilson, Fernando Wood, Yeates, and Young—173.

For Mr. Blaine—Messrs. Adams, George A. Bagley, John H. Baker, William H. Baker, Ballou, Bass, Blair, Bradley, William R. Brown, Horatio C. Burchard, Burleigh, Cannon, Cason, Caswell, Conger, Crapo, Crounse, Danford, Darrall, Davy, Dennison, Dunnell, Eames, Evans, Farwell, Fort, Foster, Freeman, Frost, Frye, Garfield, Hale, Haralson, Benjamin W. Harris, Hathorn, Hays, Hendee, Henderson, Hoar, Hoge, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kelley, Ketcham, Kimball, King, Lapham, Lawrence, Leavenworth, Lynch, Edmund W. M. Mackey, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Morey, Nash, O'Neill, Packer, Page, William A. Phillips, Pierce, Plaisted, Platt, Pratt, Purman, Rainey, Robinson, Sobieski Ross, Rusk, Sampson, Seelye, Sinnickson, Snalls, A. Herr Smith, Starkweather, Strait, Stowell, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Waldron, Alexander S. Wallace, John W. Wallace, Walls, G. Wiley Wells, Wheeler, White, Whiting, Willard, Andrew Williams, Charles G. Williams, William B. Williams, James Wilson, Alan Wood, jr., Woodburn, and Woodworth—106.

For Mr. Campbell—Mr. Anderson—1.

For Mr. Anderson—Mr. Campbell—1.

For Mr. A. S. Williams—Mr. Banks—1.

The Clerk announced that MICHAEL C. KERR, one of the Representatives from the State of Indiana, having received a majority of all the votes given, was duly elected Speaker of the House of Representatives for the Forty-fourth Congress.

Mr. RANDALL of Pennsylvania, and Mr. BLAINE of Maine, having been nominated by the Clerk for that purpose, conducted Mr. KERR to the chair amid applause, when he addressed the House, as follows:

Gentlemen of the House of Representatives:

I am heartily grateful for the honor you have conferred upon me in calling me to this exalted station. I profoundly appreciate the importance and delicacy of its duties. I shall doubtless many times need your patient indulgence. I pray that you will grant it; and, with nothing but kindly feelings toward every member of the House, I promise that in all my official acts I will divest myself, to the utmost of my ability, of all personal bias, and observe complete fairness and impartiality toward all, and toward all the great and diversified interests of our country represented in this House.

Mr. KELLEY, being designated by the Clerk as having served longest continuously as a member of the House, administered to the Speaker-elect the oath prescribed by law.

MESSAGE FROM THE SENATE.

A message from the Senate was announced, when Mr. GORHAM, its Secretary, said: I am directed by the Senate to inform the House that a quorum of the Senate has assembled and that the Senate is ready to proceed to business; also, that a committee has been appointed by the Senate, to join such committee as may be appointed by the House, to wait upon the President of the United States and inform him that a quorum of each House has assembled, and that Congress is ready to receive any communication he may be pleased to make; and that Mr. ANTHONY and Mr. THURMAN have been appointed as such committee on behalf of the Senate.

SWEARING IN OF MEMBERS.

The SPEAKER proceeded to administer to the members in attendance the oath of office. The members presented themselves, as their names were called, by States, and took respectively the "test-oath" prescribed by the act of July 2, 1862, or the special oath provided in the act of July 11, 1868, for those who, having participated in the recent rebellion, have had their legal disabilities removed by a vote of two-thirds of each House of Congress.

When the State of Louisiana was called,

Mr. WOOD, of New York, said: I ask that Mr. Morey, claiming the seat from the fifth district of Louisiana, stand aside.

When the State of Virginia was called,

Mr. GARFIELD said: I ask that Mr. John Goode, jr., from the second Virginia district, stand aside.

At the close of the swearing in of members,

Mr. HARRIS, of Virginia, said: I move that Hon. John Goode, jr., member-elect from the second district of Virginia, who holds the regular certificate according to the laws of the Commonwealth by which we have all taken our seats, be allowed to qualify now.

He has the *prima facie* case; and I believe it is the universal custom of the House in such cases to permit the party holding the *prima facie* evidence of the right to a seat to qualify, and then let the contest, if there be one, go on before the Committee on Elections. I will ask for the reading of the certificate of election of Mr. Goode.

Mr. GARFIELD. I make the point of order that the question must first be taken upon the member who was first called upon to stand aside. That question must first be decided.

The SPEAKER. The Chair sustains the point of order.

Mr. HARRIS, of Virginia. Very well, then; I will reserve the question for a moment.

FIFTH DISTRICT OF LOUISIANA.

Mr. WOOD, of New York. At my request Mr. Morey, of Louisiana, was required to stand aside. I objected to his being sworn in as a member of this House because he lacks the *prima facie* evidence of election; and I predicate my doubt as to that fact very much on the statement made by the Clerk with reference to the certificates from the governor of Louisiana when he called the Representatives from that State.

It will be recollected that he told the House that from the State of Louisiana gentlemen presenting themselves had filed certificates in his office from two persons both claiming to be governor of the State; but in this instance that I refer to, that of Mr. Morey, he presents but one certificate. And thus, sir, a very grave doubt is raised as to whether he has got that kind of credential which will entitle him to be sworn in and occupy the seat awaiting the decision of the question by the Committee on Elections. I offer, sir, the following preamble and resolution:

Whereas William B. Spencer and Frank Morey have each filed with the Clerk of this House a certificate of election as a member of the Forty-fourth Congress from the fifth congressional district of the State of Louisiana, both of said certificates being in due form as prescribed by law, and respectively signed by John McEnery and William P. Kellogg as governor of the State of Louisiana, with the seal of the State affixed thereto:

Be it resolved, That the credentials of said claimants and papers in the possession of the Clerk in relation thereto be referred to the Committee on Elections, when appointed, with instructions to report at as early a day as may be practicable which of said claimants should be sworn in as a member of this House.

Now, Mr. Speaker, I do not propose to raise the question at this time as to who is the legal governor of the State of Louisiana. It is not pertinent to this inquiry to determine that question. The sole and exclusive question is as to what form of credentials the claimant in this case presents.

If no gentleman desires to discuss the question I will move the previous question; but I will yield to any gentleman for a brief period, say five or ten minutes, who desires to discuss it.

I yield to the gentleman from Maine [Mr. BLAINE] for ten minutes.

Mr. BLAINE. I will be glad to have the resolution read.

The Clerk again read the resolution.

Mr. BLAINE. Mr. Speaker, if that resolution shall be adopted, it would put on the records of this House a statement of facts, or purporting to be facts, for which there is no possible ground. There is no more official ground for speaking of John McEnery as the governor of Louisiana than there is for so speaking of the gentleman from New York, [Mr. WOOD.] No department of this Government has ever recognized him as such. And this House of Representatives, by a very large vote, after Mr. Kellogg had been recognized by the executive department of the United States for years as the governor of Louisiana—this House of Representatives last winter, by a very large vote, to which many gentlemen on the other side of the House were consenting, and more of them anxious that the resolution should pass, solemnly recognized Kellogg as the governor of Louisiana.

And for the gentleman from New York to embody in a resolution the statement, and to commit this House to the statement, that the governorship of Louisiana is still a matter of doubt, is still in suspense, and that it is not an absolutely settled and adjudicated matter, is to place this House in a wrong position.

Any gentleman in the State of New York might send forward here a certificate giving the credentials of the district which the gentleman himself represents to some other man, and he would have precisely the same ground to arrest the swearing in of the gentleman from New York as had that gentleman to arrest the swearing in of the gentleman from Louisiana.

And the gentleman is mistaken in a matter of fact. The statement that all of the others sworn in from Louisiana had certificates from both the claimants of the office of governor of that State is not the fact. One gentleman has already been sworn in with only the certificate from Governor Kellogg.

Mr. WOOD, of New York. It was unchallenged.

Mr. BLAINE. Precisely. But if the governor of Louisiana is not competent to give a certificate, why should not it have been challenged? Why should the gentleman from New York, the watchful guardian of the interests of this House, permit a man to be sworn in upon the certificate of one whom he does not acknowledge to be the governor of Louisiana?

The Clerk of the House, from excess of care, and in the conscientious discharge of his duty, brings to the attention of the House these different certificates, which he does properly enough, perhaps, though I think the Clerk would have been entirely justified in tearing them up as waste paper and putting them into the waste basket. They are impertinent here; they have no ground to stand upon; and it would utterly disorganize all regular proceedings at the very threshold of this session, on a preliminary case of this kind, to attempt to introduce and revive the Louisiana question. I trust the gentleman from New York will not do that in this case. I therefore move to substitute for the resolution which has been read a motion that the gentleman holding the certificate from the governor of Louisiana be now sworn in.

The SPEAKER. Does the gentleman from New York yield for that motion?

Mr. WOOD, of New York. I do not. The papers in the case is the answer to the gentleman from Maine, [Mr. BLAINE.] If it really was, as assumed by my friend from Maine, that there is no possible question as to who is the legal governor of the State of Louisiana, why is it that his own friend and partisan from that State has deemed it necessary and proper to obtain the certificate of Governor McEnery? All of the gentlemen from that State, and there are six of them—all except one, about whose right to the seat there can be no question, whether McEnery or Kellogg be governor—have deemed it sufficiently important to come here clothed with certificates signed by each of these so-called governors.

Now I do not propose, as suggested by the gentleman from Maine, by the presentation of this question, to raise the great question involved, of who is or is not the governor of Louisiana. It is not necessary for our purpose now to raise that question. This is a preliminary inquiry, directed by the House to be made by the Committee on Elections, when appointed, as to who in the first instance is ostensibly entitled to the seat. That is all there is in it. We determine nothing by this reference; we settle no question. That is a matter to be determined by this House, after investigation by that committee; after the report of the committee; a question for this House to consider and determine. In this preliminary investigation and inquiry, the only question for us to determine is whether in the first instance this gentleman presents that kind of certificate which from its form entitles him to a seat until the inquiry shall be prosecuted and determined. I now renew the motion for the previous question.

Mr. WHEELER. Will my colleague yield to me for a few moments? Mr. WOOD, of New York. Yes, sir, for a few moments.

Mr. WHEELER. Mr. Speaker, I had trusted that this question as to who is governor of Louisiana had been set at rest, at least until the next general election. I am surprised that, for the paltry advantage which is now sought, this question should now be raised here. I would state, in addition to what the gentleman from Maine [Mr. BLAINE] has said, that Mr. Kellogg has been recognized as the governor of the State of Louisiana, not only by the President of the United States and by this House, but also by the people of the State of Louisiana; by solemn enactment, by a statute passed by the Legislature at its extra session in April last. I state, further, that this man, Mr. Spencer, has precluded himself from the advantage of this motion by having made himself a contestant. The files of the Clerk's office afford proof of the fact that testimony has actually been taken in this case, Mr. Spencer having given notice as a contestant of Mr. Morey. The gentleman speaks of the form of the certificate. Why, sir, the certificate in the case of Mr. Nash, which has not been challenged here at all, is identical in form and substance with the certificate of Mr. Morey. There is no difference whatever.

You gentlemen of the opposition have the majority here. You will appoint through your Speaker the Committee on Elections and will have a majority there. You have the power any day to foreclose this question. Why should you break down all precedents and all rules of law? There is no better settled principle of law than that you cannot try the title to an office in the collateral way in which you are seeking to do it here. There is no better settled principle of law than that the acts of an officer *de facto* are valid as respects third persons. You seek by this line of action to break down all these principles of law and all these precedents, when you have it in your power on any day of the session to bring this matter to a termination and to decide who is entitled to this seat. I trust that the majority here will not take any such line of action as is here proposed.

Mr. FRYE. Will the gentleman from New York [Mr. WHEELER] yield for a question?

Mr. WHEELER. Yes, sir.

Mr. FRYE. Is there any record since the election of 1872 in the State of Louisiana of a single official act of Mr. McEnery except this single one of signing these certificates?

Mr. WHEELER. Not one. There is no man here who has the hardihood to assert that McEnery made any proclamation for an election in the State of Louisiana; that any returns were ever made to a returning board recognized by him. There is no solitary official act to be found in the archives of this whole Government which supports the claim of McEnery ever to have been elected governor of the State of Louisiana.

Mr. WOOD, of New York. In conclusion, I will say but one word in reply to my colleague, [Mr. WHEELER,] who, it will be recollected, was the chairman of the committee that the last House of Representatives sent down to Louisiana to investigate the condition of affairs there. In answer to the gentleman, it is only necessary to refer to the remarkable fact that in their report, and in the substance of the conclusions at which the committee arrived, they confined themselves entirely to the question as to the election of a Legislature, not taking into consideration the election of governor, which will be the question before this House at the proper time.

Mr. HOAR. I wish to call the attention of the gentleman from New York [Mr. WOOD] to something in the framing of his resolution which I think he does not mean.

Mr. WOOD, of New York. I should be very sorry to state anything I did not mean.

Mr. HOAR. The point which I think the gentleman does not design is that the resolution refers to the committee only the credentials and

the papers in possession of the Clerk connected with the credentials, and on them directs the committee to determine, not who has a *prima facie* case, but who is entitled to the seat; in other words, it requires the Committee on Elections to determine the final question upon merely these credentials and the attendant papers.

Mr. WOOD, of New York. I yield to the gentleman from Mississippi, [Mr. LAMAR.]

Mr. LAMAR. Mr. Speaker, I concur with the suggestion thrown out by the gentleman from Massachusetts, [Mr. HOAR,] that the only question presented in this case is the question of the *prima facie* right of the gentleman from Louisiana, [Mr. MOREY,] to be seated upon this floor while the disputed question of permanent membership is pending. Mr. Speaker, what is a *prima facie* right? It is a right based upon a certificate of the proper authority of the State, formal, regular, and in accordance with law. By the act of Congress, the Clerk of the preceding House of Representatives is invested with the power of determining in the first instance this question in order to the organization of the House. He has decided the question, sir, in the first instance by putting the name of Mr. MOREY upon the list of members. This is no mere nominal authority vested in the Clerk. It is a substantive power, and by virtue of its exercise Mr. MOREY has participated in the organization of this House, voting for or against the present occupant of the Speaker's chair.

But, sir, while the Clerk has done this thing, (which it was his duty to do under the law), he has also, in accordance with his duty, put upon record and reported to this House the fact that there is a dispute as to the *prima facie* right of Mr. MOREY. That is the point to which I would like to call the attention of the gentleman from Maine; that the Clerk of the House has made known to this body the existence of a controversy, not only with reference to the question of the election of Mr. MOREY, but with reference to his *prima facie* right.

The House is in possession of the fact that there is such a controversy. It may be, in the estimation of gentlemen, based upon the previous action of this House, a very simple question; one which can be decided only in one way; but still, sir, it is a question of law as to whether this certificate is signed by the proper governor or not.

Now, sir, what is the practice of the House when the Clerk brings to its attention the fact that such a controversy exists; that there is a dispute as to the *prima facie* right? Its practice is uniform. The gentleman from Maine cannot show an instance to the contrary. When it is communicated officially to the House, by the Clerk, its official organ in such matters, that there is pending a contest as to the *prima facie* right, in every instance the question was referred to the Committee on Elections or to the Committee on the Judiciary, in order to determine, first, the *prima facie* right and, afterward, the right of permanent membership. It is a question, sir, which it is the practice of the House to refer to a committee, however strongly the different departments of the Government may be committed on the question in dispute or however clear may be our own duty when the question is appropriately before us.

It is not usual for questions like this to be thus summarily decided; for the decision might in some cases render the merits of the controversy *res adjudicata*. From the New Jersey cases down to the Virginia and Louisiana contested cases the practice has been uniform, without a single exception that I now recall—one which has been crystallized as it were into regular parliamentary law—to refer the question to a committee, as well that of the *prima facie* right as that of the merits of the controversy.

Mr. BLAINE. Will the gentleman from Mississippi permit me to ask him a question?

Mr. LAMAR. Yes, sir; but I do not pledge myself to answer it. [Laughter.]

Mr. BLAINE. That may be. Does the gentleman know of any precedent whatever in the history of this House of credentials, or pseudo credentials, of a pretended governor, who has never been recognized by any department of his own State or of the United States—I throw out of sight the election—who has never had any recognition, who speaks of the seal of the State which he never had in his possession, a fabricated seal; a seal which could be bought for two dollars and a half by any one—does the gentleman know of any instance in which there has ever come to this House a similar question? Does the New Jersey case involve any parallel to it? Does any case the gentleman can recall in his long service here, with his intimate acquaintance with the law of elections during his service on that committee—can he give us any case in the slightest degree parallel to it? Otherwise, if the precedent which gentlemen attempt to force upon this House is followed, any pretended governor, certifying to any pretended or presumptuous candidate, may delay the organization of this House by putting in any sort of manufactured credentials and testifying by any sort of factitious or fictitious seal. Tell me of a single precedent or a single parallel for it. I repeat again, with no disrespect either to the gentleman who now occupies the floor or to my friend who introduced the resolution, that the matter on the part of McENERY was an entire impertinence. He never had possession of a single return. He had nothing before him to base that upon any more than lies upon this empty desk. It was, so far as he is concerned, a bold, presumptuous fraud; and I trust, in the hot zeal of advent to power, my friend, with his well-known moderation, will restrain his party from placing on record such an outrage, not only

upon State rights, of which he stands as such a great exemplar, but upon the rules of common decency as well.

Mr. LAMAR. I desire to respond to the gentleman's interrogatory. I beg pardon for calling it so; but I believe it was an interrogatory, into the stomach of which has been injected something like an argument and an exhortation besides. [Laughter.] Now, sir, the single question on which the gentleman from Maine hangs his speech is itself an adroit *petitio principii* of the logician. He asks me, sir, if I have known a single instance in which the certificate of a pretended, a sham governor, was ever referred to a committee. I answer, sir, and I do it with perfect confidence, that the question as to whether this is the certificate of a sham governor or not is the very question which is to be referred to the committee.

Mr. BLAINE. Then I understand the gentleman to mean that this is the formal re-opening of the Louisiana case, and not merely the question of the seat of Mr. MOREY. Do I understand that?

Mr. LAMAR. The gentleman understands simply that a question which the Clerk of this House has remitted to the House (whether it involves the other question as to the legal authority of the gubernatorial contestants in Louisiana or not) is a question that ought not to be decided informally on the seating of a member, but ought to be formally referred to the committee and gravely and maturely decided upon, as has always been done in like cases.

There never has been an instance in which the validity of a credential involving a dispute as to a contested seat has ever been decided in this summary manner. Take the New Jersey case. There, sir, was a certificate of a governor for one set of claimants and the certificate of a secretary of state for the other. Now, sir, if the governor in that case was not authorized to give that certificate, the credentials bearing his signature and seal were just as much of a sham, was just as invalid, just as much of an unreality in law, as that of a pretended governor. The question presented to us by the Clerk's report is, who was authorized to issue that certificate, and it is simply following parliamentary usage to refer it.

Mr. BLAINE. Before the gentleman from Mississippi takes his seat, will he permit me to ask him, because he is the gentleman of all others to whom I desire to address the inquiry, if it is not a matter of history known outside—and, while I shall reveal nothing other than what is known outside, yet still better known inside the House—that last year in what was known as the Louisiana adjustment, when the Legislature was changed and the party relation within that State was changed, it was, upon this floor, a perfectly understood matter—the gentleman himself understanding it—that the vote of the House declaring Kellogg to be governor was considered to be the final settlement; and I ask him further whether, in order to get that question before the House, the very Nestor of the gentleman's party, the venerable gentleman who I regret is absent to-day, the invalid statesman from Georgia, [Mr. A. H. STEPHENS,] did not vote with the republicans, avowedly that that might be the settlement? And now the party of the gentleman having obtained all the advantage which was involved from their side of the question in Louisiana through the Legislature, do I understand my honorable friend that he comes here to head a movement to trample on the other side of that agreement; that the other side of the Louisiana agreement is to be stamped in the dust; that the republicans having obeyed, and to the last jot and tittle of honor's extreme demand, what they agreed to, a democratic House of Representatives in which the gentleman himself is a conspicuous leader shall trample on their side of it, and that they will in an incidental way of this kind attempt to reopen and dishonor the agreement that was made last year?

Mr. LAMAR. The gentleman from Maine has addressed to me a series of interrogations upon this subject, all of which I will answer if I can remember them. So far as I myself am concerned—I believe he has referred to my own knowledge of the matter—I will answer him cheerfully; for, with reference to the Louisiana contest and the compromise to which the gentleman alludes, I am perfectly willing to disclose both my relation to it and my understanding of its effect and obligation. That compromise did involve, in my opinion, the recognition of Mr. Kellogg as acting governor of that State. I think such was the spirit of that compromise when it was brought into this House. I admired the course of the gentleman from Massachusetts, and expressed my gratification at the fidelity with which he had brought the matter here. But, sir, when he appealed to me for my support I told him I could not vote for it, because, occupying my position, I could not give a vote which involved the recognition of Kellogg as governor. But in point of fact, sir, that resolution did pass, and its avowed and understood object and meaning were what the gentleman from Maine ascribes to it, and I acknowledge it has been carried out by the other side faithfully.

There will be no receding from that understanding so far as I am concerned. But when the Clerk raises a question here, neither the gentleman, nor I, nor this House can consistently, in the face of the unbroken usage of this body, decide the question in this summary manner. It should go to the Committee on Elections, where all questions of *prima facie* right presented by the Clerk have been hitherto decided. It is a pure question of parliamentary procedure, and involves no repudiation of bargains expressed or implied, and I undertake to say that he will hear of no repudiation from me.

Mr. HOAR. Will the gentleman from New York [Mr. WOOD] modify his motion in the way I have suggested?

Mr. LAMAR. I was about to propose, in deference to the suggestion of the gentleman from Massachusetts, an amendment which I think will meet his views. It is as follows:

That the credentials of Mr. Morey, of the fifth district of Louisiana, be referred to the Committee on Elections, with instructions to report, as soon as possible upon his *prima facie* right to a seat on this floor.

Mr. WOOD, of New York. I accept that amendment.

Mr. LAMAR. Does that meet the views of the gentleman from Massachusetts?

Mr. HOAR. I do not agree that the question of the governorship should be referred, but the amendment is preferable to the original resolution.

Mr. WOOD, of New York. I desire to say a few words and then I shall move the previous question. I am somewhat surprised that my able and eloquent friend from Maine [Mr. BLAINE] should attempt thus early in the session to introduce merely partisan considerations with reference to a plain common-sense duty imposed upon the members of this House.

As I said before the report of the Clerk in reference to this district presented such a case that it is a proper subject of inquiry as to who is entitled to the seat until the further question of the contest shall be investigated by the appropriate committee. But, sir, I will remind my friend from Maine that in the Senate a committee of investigation on the Louisiana case, of which his friends had a majority, reported that Mr. Kellogg was not elected governor of Louisiana. I do not propose, however, that the House shall determine the question as to who is or who is not the governor of Louisiana. I only propose a preliminary inquiry as to the *prima facie* right to this seat. Unless some gentleman desires to be heard, I will now move the previous question.

Mr. HOLMAN. I ask my friend from New York to yield to me for a moment.

Mr. WOOD, of New York. I yield to my friend from Indiana.

Mr. HOLMAN. I ask that the credentials under the authority of which the Clerk has placed the name of Mr. Morey on the roll-call be read.

The Clerk read as follows:

STATE OF LOUISIANA, EXECUTIVE DEPARTMENT,
New Orleans, December 26, 1874.

Be it known that at an election begun and held on the 2d day of November, A. D. 1874, for members of Congress, Frank Morey received 12,379 votes and W. B. Spencer received 11,038 votes, according to the certificate of the returns of said election made, filed, and of record in the office of the secretary of state in the manner prescribed by law.

Now, therefore, I, William Pitt Kellogg, governor of the State of Louisiana, do hereby certify that Frank Morey, who received a majority of the votes cast at said election, is truly and lawfully elected to represent the fifth congressional district of Louisiana in the Forty-fourth Congress of the United States.

In testimony whereof I have hereunto signed my name and caused the seal of the State to be attached, this 26th day of December, A. D. 1874, and of the Independence of the United States the ninety-ninth.

WILLIAM P. KELLOGG.

By the governor:
P. G. DESLONDE,
Secretary of State.

Mr. GARFIELD. I call for the reading of any other credentials which may be supposed to relate to this matter.

The SPEAKER. The Clerk will read any other credentials on file.

Mr. HOLMAN. The gentleman from Ohio will allow me to say that under the law regulating the organization of this House the Clerk, in the first instance, is to determine what names shall be placed on the roll of members, who shall participate in the preliminary stages for the organization. He has, I have no doubt rightfully, upon the presumptive case before him, placed the name of Mr. Morey on the roll, for the credentials which have been read clearly make out a *prima facie* case in his behalf. The information furnished to the House by the Clerk, beyond the certificate which has been read, was certainly a matter entirely outside of his duty, but out of abundant caution. The Clerk of the House, in providing under the law for the primary organization of the House, places on the roll the person who has the *prima facie* right to the seat; there his duty terminates, and the person so entitled by virtue of his certificate is sworn in. We are told there is a contest in this case. Well, let the contest go on in the usual course; but no question in respect to that contest is before us. The question as to the person whose name is signed as governor of Louisiana is clearly unimportant, if the attestation is perfect, and no charge of fraud is raised; and yet the House knows that in fact the party whose name is signed to that certificate is the acting governor of Louisiana, and has been for three years the acting governor of that State, the governor *de facto*, the governor in fact, and this is sufficient. The question as to who is governor *de jure* is one which may well arise before the Committee on Elections. It may be a matter of important inquiry. I believe that it is in accordance with the better practice of the House, and at least with the often-affirmed views of this side of the House, and far better for the interests of the country, that the party holding such a certificate shall be held *prima facie* entitled to his seat and the matter of contest go in the usual course to the Committee on Elections and be determined by the evidence and law. Entertaining these views, I am confident that it is wiser and safer that the party whose name has been placed regularly and properly upon the roll of members and who appears here with the proper certificate, unchallenged for fraud, should be sworn in. I trust, sir, that

such will be the action of the House. Let the party holding the certificate be sworn in and let the contest determine the ultimate right.

Mr. GARFIELD. I withdraw my request to have any other paper read.

Mr. WOOD, of New York. I now yield to the gentleman from Massachusetts [Mr. BANKS] for two minutes.

Mr. BANKS. To me the question as presented to the House from the Clerk's desk seems to be more simple than it is in the arguments of gentlemen on the one side or the other. If I understand this question, it is the fact that the evidence by which this gentleman from the State of Louisiana is accredited as a member of this House is different from that upon which other gentlemen from that State have been accredited as members. It is, in fact, a difference in the credentials—a difference in the evidence presented.

Mr. GARFIELD. No; the evidence is the same.

Mr. BANKS. I understand that the evidence is different; and if there be a difference, then it is a proper subject for inquiry and should be referred to the appropriate committee. That course would be consistent with the unbroken and uninterrupted precedents of this House. If the evidence upon which other members have been recognized by the Clerk as accredited to seats in this House is different from that upon which this gentleman is recognized by him as accredited, then that difference should be submitted to the committee without regard to this other question.

Mr. GARFIELD. The evidence in all the cases is absolutely the same, if the gentleman from Massachusetts [Mr. BANKS] will allow me to say so.

Mr. BANKS. If that be so—

Mr. HOLMAN. Allow me to ask the gentleman from Massachusetts if this certificate is not in the usual form, the form prescribed by act of Congress? As I understand it, it is in that form.

Mr. BANKS. If the evidence upon which the gentleman in question is accredited is not the same as in the other cases, then the proposition to refer the matter to the proper committee for inquiry is right and in accordance with the uninterrupted precedents of this House.

Mr. HOLMAN. If, in fact, this certificate differs from that prescribed by the act of Congress, then the case would be as suggested by the gentleman from Massachusetts. But, if I understood this paper when it was read, it is in conformity to the law.

Mr. WOOD, of New York. I desire to have read to the House the statement made by the Clerk two years ago in the case of Louisiana, when he refused to put upon the roll-call the names of three persons from that State because they presented a case precisely like this. In the one case they had certificates signed by Governor Warmoth and in the other case they had certificates signed by Lieutenant-Governor Pinchback. Not knowing which of them were entitled to have their names placed upon the roll-call, he refused them all. I desire to have the RECORD read at the Clerk's desk, that the House may know what was the action of the Clerk in that case as well as in this. I design by that no reflection upon the Clerk of this House, but only to show that this is an analogous case, and one which we should consider now.

The Clerk read as follows:

During the roll-call, when the State of Louisiana was reached,

THE CLERK said: In Louisiana there are unchallenged certificates from the third and fifth districts only; in the remaining three districts and the Representative at large two conflicting sets of papers have been presented, each certifying the election of a different person and each purporting to have been issued by a proper State officer. There is no substantial difference in form; the one set of papers purports to have been executed on the 4th of December, 1872, and to have been signed by Governor Warmoth, though not transmitted by him to the Clerk's office; they were received, one of them early in March last, another later in that month, and two of them in the latter part of April, 1873. The other set of papers purports to have been signed by Acting Governor Pinchback, and transmitted by him to the Clerk's office by mail, and received early in January last. The Clerk accordingly enrolls the two unchallenged members, Hon. Chester B. Darrall and Frank Morey.

Mr. WOOD, of New York. I now call the previous question.

Mr. COX. Will the gentleman yield to me?

Mr. WOOD, of New York. I will yield to my colleague [Mr. Cox] for two minutes.

The SPEAKER. The Clerk requests permission to make to the House a brief statement on this subject. The Chair supposes there will be no objection.

Mr. WOOD, of New York. I will not object.

Mr. RANDALL. I hope there will be no objection.

The SPEAKER. The Chair hears no objection, and the Clerk will proceed.

THE CLERK. The controlling view which in the judgment of the Clerk of the House required him to accept the Kellogg certificates was that prior to the making up of the roll, on the 4th of March last, there had been a recognition of William P. Kellogg as the governor of Louisiana by the House of Representatives, and at that time he was *de facto* governor of the State. In view of the recognition of him by the executive branch of the Government of the United States, by all the departments of the Government, and by that branch of the legislative part of the Government to which the Clerk was responsible, he felt himself to be absolutely concluded, and therefore inserted those names returned by Governor Kellogg, without any reference whatever to any political aspect of the case.

Mr. COX. Mr. Speaker, I agree with my friend from Indiana [Mr.

HOLMAN] that where there is a *prima facie* case made, a certificate presented, and no doubt is raised as to the genuineness of that certificate, we ought not to hesitate in deciding according to our rule, laid down in all our books and digested lately by our friend from Iowa, [Mr. McCrory,] that the certificate should seat the member who holds it, if that certificate is in the form prescribed by the statute. This certificate is formal, legal. It certifies that the member is elected in pursuance of the laws of Louisiana and the laws of the United States. It is signed by the *de facto* governor. The Clerk testifies that his action was taken in view of the resolution passed on the 1st of March, 1875, by which this House agreed, by two resolutions, to recognize, first, the Legislature about to be constituted, and then that William Pitt Kellogg be recognized as the governor of the State of Louisiana until the end of the term of office fixed by the constitution of that State. All that is true, Mr. Speaker; but when those two resolutions came up here, Mr. Potter, at that time a Representative from my State, said "we shall vote against those resolutions only because of the second; we are not opposed to the first;" and in the vote which was taken parties divided on that issue. The first resolution declared—

That it is recommended to the house of representatives of Louisiana to take immediate steps to remedy said injustice, and to place the persons rightfully entitled in their seats.

I never believed in that second resolution. I would not have voted for it to the end of time. Gentlemen on that side and gentlemen on this, seeking pacification, brought about this compromise, which was consummated abnormally in some lawyer's office in New York, after our adjournment. The gentleman from Maine [Mr. BLAINE] and his party, at the last end of their session, recognized the McEnery government to some extent, by placing in their seats in this House the Democrats who had been elected, after you had kept in their places on this floor for two years the men that you yourself said were never elected.

Talk about fraud! The devil talking of piety! The gentleman from Maine talking of fraud in Louisiana! We never gave our consent to that Kellogg government. Why, in the Senate to-day there remain certificates from McEnery for McMillan, and from Kellogg for Pinchback. How, I ask the gentleman from Maine, was the question treated there? Both certificates were sent to the Committee on Elections. The late lamented Senator, Mr. Ferry, of Connecticut, made a speech in favor of sending both certificates to that committee, so that the *prima facie* case might be tried.

We are not responsible for the settlement in Louisiana. I would now—and I make this the conclusion of my speech—send this whole matter to the Committee on Elections, as the Senate has done, and let that committee make a prompt report on the subject, not to open up the Louisiana case again, (God forbid! they settled it themselves,) but to wind up this business of these double *prima facie* cases; for most *prima facie* cases seem to be bad in the rear while they may seem right in the front.

Mr. JONES, of Kentucky. If the gentleman from New York [Mr. WOOD] will allow me, there is a piece of information I would be glad to obtain. I wish to ask the gentleman whether I understood him correctly as stating that all of the Representatives, or assumed Representatives, from Louisiana, except one, thought it necessary to obtain the certificate of Mr. McEnery as well as Mr. Kellogg?

Mr. WOOD, of New York. I will answer the gentleman from Kentucky that there are six congressional districts in the State of Louisiana; that four of these six Representatives, and one of them a member of the dominant political party in this country, thought it proper to procure the certificate of Governor McEnery. One of them has not that certificate—the case in point has not that certificate—but four of them have.

Mr. JONES, of Kentucky. Certificates from both McEnery and Kellogg?

Mr. WOOD, of New York. Yes, sir.

Mr. JONES, of Kentucky. I should like to ask my friend from Maine, [Mr. BLAINE,] if it be true that McEnery was never recognized as governor—a mere myth—why his Representatives, or some of them, or rather the Representatives of his party from that State, deemed it necessary to obtain the name of Governor McEnery? If it be true, Mr. Speaker, what my friend from New York has asserted, I think they ought all to be turned over to the Committee on Elections, every man of them, as there seems to be a doubt in that State as to who is governor.

Mr. WOOD, of New York. I now call for the previous question.

The resolution was again read.

Mr. BLAINE. I desire to make a parliamentary inquiry, to which the gentleman will, of course, yield. He declines to allow me to substitute the motion that Mr. Morey be sworn in. I desire to ask if that motion will not be in order if his demand for the previous question be not seconded?

The SPEAKER. It is the opinion of the Chair it will.

Mr. BLAINE. If the House refuse to second the demand for the previous question, as asked by the gentleman from New York, I will then submit that motion, with the leave of the Speaker.

Mr. WOOD, of New York. If the House refuses to consent to my demand for the previous question, I ask if the effect will not be to let the discussion run on, until the House finally determines my resolution? Then, if my resolution be voted down, the proposition of

the gentleman from Maine will be in order in case the previous question be not sustained.

The SPEAKER. The question now is on sustaining the demand for the previous question.

Mr. LAMAR. There is some misunderstanding here. I proposed my resolution in lieu of the one offered by my friend from New York.

The SPEAKER. The amendment was accepted and became a part of the resolution of the gentleman from New York.

Mr. LAMAR. But that recital which is there is not a part of the resolution I offered.

The SPEAKER. In the opinion of the Chair it is, remaining a part of the resolution which the gentleman did not amend.

Mr. LAMAR. The way in which I wish to present it to the House is a clear reference of the question to the committee without any recital of facts.

Mr. WOOD, of New York. If it is not too late, as there is no substantial difference, I will accept the resolution of the gentleman from Mississippi as a substitute for my preamble and resolution.

The SPEAKER. The question is on seconding the demand for the previous question on the resolution, which will now be read.

The Clerk read as follows:

Resolved, That the credentials of Frank Morey from the fifth district of Louisiana be referred to the Committee on Elections, with instructions to report on his *prima facie* right to a seat on the floor.

Mr. LAMAR. The words "as soon as possible" should be inserted.

The SPEAKER. That will be done.

Mr. BLAINE demanded tellers on seconding the previous question.

Tellers were ordered; and Mr. GARFIELD and Mr. CLYMER were appointed.

The House divided; and the tellers reported—ayes 142, noes 111.

So the previous question was seconded.

Mr. WHEELER demanded the yeas and nays on ordering the main question to be now put.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 135, nays 134, not voting 17; as follows:

YEAS—Messrs. Ainsworth, Anderson, Ashe, Atkins, Bagby, John H. Bagley, jr., Banks, Barnum, Blackburn, Bland, Bliss, Blount, Boone, Bright, John Young Brown, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Candler, Cate, Caulfield, John B. Clarke, John B. Clark, jr., Clymer, Cochran, Collins, Cook, Cowan, Cox, Culbertson, Cutler, Davis, DeBolt, Dibrell, Douglas, Durham, Eden, Ellis, Faulkner, Felton, Forney, Franklin, Fuller, Gause, Gibson, Glover, Gunter, Andrew H. Hamilton, Robert Hamilton, Hancock, Hardenbergh, Henry R. Harris, John T. Harris, Harrison, Hartridge, Hartzell, Hatcher, Henkle, Hereford, Abram S. Hewitt, Hill, Hooker, House, Hunton, Hurd, Jenks, Frank Jones, Thomas L. Jones, Knott, Lamar, George M. Landers, Franklin Landers, Lane, Levy, Lynde, Levi A. Mackey, Maish, McFarland, Meade, Metcalfe, Milliken, Money, Morgan, Morrison, Matchler, New, Odell, Parsons, John F. Phillips, Piper, Powell, Randall, James B. Reilly, Rice, John Robbins, William M. Robbins, Roberts, Miles Ross, Scales, Schumaker, Seelye, Sheakley, Singleton, Slemmons, William E. Smith, Southard, Sparks, Springer, Stenger, Stone, Terry, Thompson, Tucker, Turner, John L. Vance, Robert B. Vance, Waddell, Charles C. B. Walker, Walling, Walsh, Warren, Erastus Wells, Whitehouse, Whithorne, Wigginton, Wike, James Williams, James D. Williams, Jeremiah N. Williams, Willis, Benjamin Wilson, Fernando Wood, Yeates, and Young—135.

NAYS—Messrs. Adams, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banning, Bass, Blaine, Blair, Bradford, Bradley, William R. Brown, Buckner, Horatio C. Burchard, Burleigh, Cannon, Cason, Chittenden, Conger, Crape, Crounse, Danford, Darrall, Davy, Dennison, Dobbins, Dunnell, Durand, Eames, Ely, Evans, Farwell, Fort, Foster, Freeman, Frost, Frye, Garfield, Goodin, Hale, Haralson, Benjamin W. Harris, Hathorn, Haymond, Hays, Hendee, Henderson, Hoar, Hoge, Holman, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kehr, Kelley, Ketchum, King, Lapham, Lawrence, Leavenworth, Lewis, Lord, Luttrell, Lynch, Magoon, MacDougall, McCrary, McDill, McMahon, Miller, Mills, Monroe, Nash, Neal, O'Brien, O'Neill, Packer, Page, Payne, Phelps, William A. Phillips, Pierce, Plaisted, Platt, Potter, Pratt, Purman, Rainey, Rea, Reagan, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Saylor, Schleicher, Sinnickson, Smalls, A. Herr Smith, Starkweather, Straft, Stevenson, Stowell, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Waldron, Alexander S. Wallace, John W. Wallace, Walls, Ward, G. Wiley Wells, Wheeler, White, Whiting, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, William B. Williams, Wilshire, James Wilson, Alan Wood, jr., Woodburn, and Woodworth—134.

NOT VOTING—Messrs. Beebe, Bell, Campbell, Caswell, Chapin, Egbert, Goldsmith, W. Hewitt, Hopkins, Kimball, Edmund W. M. Mackey, Poppleton, John Reilly, Swann, Tarbox, Teese, Thomas, and Gilbert C. Walker—17.

So the main question was ordered.

The question recurred on agreeing to Mr. WOOD's resolution, as modified; and being taken, the Speaker stated that in the opinion of the Chair the "noes" had it.

Mr. WOOD, of New York. I call for a division.

The "ayes" having risen, the Speaker stated that the motion was evidently not sustained by a majority.

Mr. BLAINE. I now submit the following resolution:

Resolved, That Hon. Frank Morey, holding a certificate from the governor of Louisiana, be sworn in as a member of this House.

Mr. RANDALL. I move to amend by striking out that portion of the resolution which recognizes Mr. Kellogg as governor of Louisiana, so that it shall be simply to swear in.

Mr. BLAINE. I am willing to modify the resolution in that way, and move that Hon. Frank Morey be sworn in. I do not want to raise the question of the recognition of the governor on the credentials presented.

The question was taken on Mr. BLAINE's resolution, as modified, and it was agreed to; and Mr. MOREY, having presented himself, was duly qualified by taking the oath prescribed by the act of July 2, 1862.

VIRGINIA CONTESTED ELECTION.

Mr. HARRIS, of Virginia. I now move that my colleague, Mr. John Goode, jr., Representative of the second district of Virginia, be sworn in. Mr. Goode holds the certificate of election provided by the laws of the Commonwealth of Virginia, which certificate I desire the Clerk to read. I have nothing further to say.

Mr. GARFIELD. I desire to make a request of the gentleman from Virginia, [Mr. HARRIS.]

Mr. HARRIS, of Virginia. I do not yield. I ask that the certificate be read.

The Clerk read as follows:

COMMONWEALTH OF VIRGINIA:

This is to certify that at a meeting of the board of State canvassers of Virginia, held at the office of the secretary of the Commonwealth, the fourth Monday in November, 1874, on an examination of the official abstracts of votes on file in that office, it was ascertained and determined that at an election held in said State, pursuant to law, the first Tuesday after the first Monday in November, 1874, for Representatives in the Forty-fourth Congress of the United States, John Goode, jr., was duly elected as Representative from the second district.

Given under my hand and seal of office at Richmond, this 25th day of November, 1874.

[SEAL]

JAMES McDONALD,
Secretary of the Commonwealth.

Mr. HARRIS, of Virginia. I now call the previous question, believing that no debate is necessary upon this question. It is too plain to admit of debate.

Mr. GARFIELD. I appeal to the gentleman to concede to me what I supposed was my right when I demanded the floor, to state the ground of my objection to the resolution.

Mr. HARRIS, of Virginia. I will hear the gentleman's objection.

Mr. GARFIELD. The objection was wholly based upon the petition or demand by J. H. Platt, jr., which I will send to the Clerk's desk, and ask to be read. After it has been read I may desire to say a few words.

The Clerk read as follows:

WASHINGTON, D. C., December 6, 1875.

To the House of Representatives
of the United States of America:

I, James H. Platt, jr., of Virginia, deny the right and title of John Goode, jr., to take his seat in the House of Representatives of the Forty-fourth Congress of the United States as Representative from the second congressional district of Virginia, upon the following grounds. I allege:

1. That the certificate which he holds as *prima facie* evidence of his right and title to the seat aforesaid is without authority of law, and is not supported by any record evidence, and is contradicted by the oath of the secretary of the Commonwealth, James McDonald, himself, who signed said certificate, and caused the same to be delivered to said Goode.

2. That said certificate could not be lawfully executed and issued by the secretary of the Commonwealth alone, without a statement of the whole number of votes given in the election in said second congressional district for a Representative therefrom, nor without an ascertainment and determination by the board of state canvassers as to the whole number of votes cast and the name of the person who had received the greatest number of votes given in said election.

3. The statement of the whole number of votes cast in the counties and corporations forming said congressional district in an election for a Representative in the Congress of the United States, held pursuant to law, on the first Tuesday after the first Monday of November, 1874, was made to the State board of canvassers, and laid before them on the 23d day of November, 1874, and the said board certified the said statement to be correct—

Mr. HARRIS, of Virginia, (interrupting the reading.) Would not the end of the gentleman from Ohio be better accomplished by having that document printed in the CONGRESSIONAL RECORD? I do not suppose that he desires to detain the House by a full statement of the facts, as the contestant proposes to prove them on the *prima facie* question.

Mr. GARFIELD. Certainly not.

Mr. RANDALL. I submit to the gentleman from Ohio [Mr. GARFIELD] that in no particular or form whatever does this partake of the nature of a credential.

Mr. GARFIELD. The gentleman can hardly say that till he has heard it.

Mr. RANDALL. I have heard enough to know that it is an argument and not in the nature of a certificate.

Mr. HARRIS, of Virginia. I did not yield the floor to the gentleman from Ohio for the purpose either of the gentleman himself or my former colleague, the contestant, [Mr. Platt,] injecting an argument upon the supposed facts of his case on my motion to admit the qualification of my colleague upon the papers he presents making a fair *prima facie* case according to the law of the Commonwealth of Virginia.

Mr. HOAR. If the gentleman has the law of the State of Virginia prescribing the form of credentials and what officer shall be authorized to give them, I trust he will have it read.

Mr. HARRIS, of Virginia. The law of the State of Virginia is in the Library, and the gentleman can send for it; but this gentleman holds the same certificate which every other member from Virginia held who has been sworn in, and it was made in due form of law, according to the method prescribed by the Legislature of Virginia.

Mr. HOAR. Will the gentleman have it read to the House?

Mr. HARRIS, of Virginia. Well, no. That is going behind the record; the certificate which this gentleman holds is *prima facie* evidence of his right to the seat.

Mr. GARFIELD. Would it be in order for me to have the residue of that paper read?

Mr. HARRIS, of Virginia. I do not yield for the reading of a

paper in the form of an argument; and I am sure that my friend from Ohio will not take advantage of my yielding to him to have read that which does not appertain to the case now before the House. The paper which he presents bears upon the merits of the case, when, in fact, the only question now before the House is the *prima facie* case.

Mr. GARFIELD. As a matter of parliamentary courtesy, it was my right to have the floor, as I objected to the swearing in of this member. The gentleman rose and offered a resolution, and on my representation of my right to be heard on the question, he yielded to me. Now, if he chooses to withdraw his yielding, I suppose he can do it.

Mr. HARRIS, of Virginia. I yielded to hear what the gentleman had to say.

The SPEAKER. In the opinion of the Chair, the gentleman from Virginia has a right to resume the floor.

Mr. HARRIS, of Virginia. I resume the floor and move the previous question.

Mr. HOAR. I hope the gentleman will have the law of Virginia read.

Mr. HARRIS, of Virginia. I am willing that the gentleman from Ohio [Mr. GARFIELD] shall have the residue of the paper which he presented printed in the RECORD, if he desires it.

Mr. GARFIELD. I have no ambition to have papers printed that cannot be read here.

The question was upon seconding the previous question.

The previous question was seconded and the main question ordered, the question being upon the motion of Mr. HARRIS, of Virginia.

The question was taken, and the motion of Mr. HARRIS, of Virginia, was agreed to.

Mr. JOHN GOODE, jr., Representative-elect from the second district of Virginia, then appeared, and qualified by taking the oath prescribed by law.

THIRTY-THIRD DISTRICT, NEW YORK.

The SPEAKER. There remains a question of a vacancy in the thirty-third congressional district of New York.

Mr. WHEELER. Mr. Nelson I. Norton, Representative-elect from that district, is here. I ask that he be sworn in. He holds a certificate from the board of State canvassers, which I ask the Clerk to read.

Mr. COX. Is that a *prima facie* certificate?

The SPEAKER. The Clerk will read it.

Mr. COX. I want to have referred with it other papers in connection with the same case.

The Clerk read as follows:

United States of America, by Samuel J. Tilden, governor of the State of New York:

It is hereby certified that Diedrich Willers, jr., was, on the day of the date of the annexed certificate, secretary of state of the State of New York, and duly authorized to grant the same; that the same is in due form, and executed by the proper officer; that the seal affixed to said certificate is the seal of the secretary of state of the State of New York; that the signature thereto of the said secretary of state is in his own proper handwriting, and is genuine; and that full faith and credit may and ought to be given to his official acts.

In testimony whereof the great seal of the State is hereunto affixed.

Witness my hand, at the city of Albany, the 3d day of December, in the year of our Lord 1875.

SAMUEL J. TILDEN.

Passed the secretary's office the 3d day of December, 1875.

DIEDRICH WILLERS, JR.,
Secretary of State.

STATE OF NEW YORK, ss:

We, the secretary of state, comptroller, treasurer, attorney-general, and state engineer and surveyor, having formed a board of state canvassers for the purpose of canvassing the whole number of votes given in the thirty-third congressional district of said State, comprising the counties of Cattaraugus and Chautauqua, at the general election held in said State on the 3d day of November, 1875, for Representative in Congress in the Forty-fourth Congress of the United States, in the place of Augustus F. Allen, (who died January 20, 1875, as appears by certificate of county clerk of Chautauqua County, filed in the office of the secretary of state, before the commencement of his term of office,) do certify and state:

That the whole number of votes given for the office of Representative in Congress in said counties at said election was as follows, to wit:

	Cattaraugus.	Chautauqua.	Total.
Charles S. Cary	4,525	4,614	9,139
Nelson I. Norton	4,961	4,961
Flint Blanchard	72	72
Whole number of votes	9,486	4,686	14,172

That the whole number of votes given in said counties at said election for the office of member of Congress was as follows, to wit:

Cattaraugus County, none.

Chautauqua county, 5,818; of which Nelson I. Norton received 5,809 votes; George W. Patterson received 1 vote; Carry of Olean received 1 vote; Richard P. Marvin received 2 votes; W. L. Sessions received 1 vote; Orsell Cook received 1 vote; blank, 3 votes.

That the whole number of votes given for the office of Representative in the Forty-fourth Congress in said counties at said election was as follows, to wit:

Cattaraugus County, none.

Chautauqua County, Augustus N. Lowry received 5 votes.

That upon said canvass it appears that the greatest number of votes given in the counties comprising the thirty-third congressional district at the said general election held November 3, 1875, for the office of Representative in Congress were given for Charles S. Cary.

That at said election the whole number of votes given in said counties for Nelson I. Norton for member of Congress and for Representative in Congress combined exceeds the whole number of votes given to Charles S. Cary for Representative in Congress by 1,631 votes.

That this board has not canvassed 5 votes given in said counties at said election to Augustus N. Lowry for the office of Representative in the Forty-fourth Congress, for the following reasons:

First. The statutes of the United States provide that, in cases of vacancy, the time of filling the same may be prescribed by the laws of the several States.

Second. The laws of this State, governing elections, provide that vacancies in the office of Representative in Congress, occurring before the commencement of a term, unless filled at a special election, shall be filled at the general election next succeeding the happening of the vacancy, to wit, the late general election, held November 2, 1875.

Third. That the general election held November 2, 1875, was not a general biennial election for Representatives in Congress, such election having last occurred at the general election held November 3, 1874, and it was not therefore necessary to designate upon the ballot the Congress for which persons were voted for.

This board, in making the foregoing statement, makes no determination as to the result of the election for Representative in Congress at the said general election in the said thirty-third congressional district, for the following reasons:

First. That Charles S. Cary did not receive a majority of all the congressional votes cast in said district both for Representative in Congress and member of Congress combined, although receiving a majority of votes for Representative in Congress in said district.

Second. That this board cannot determine, declare, and certify, pursuant to act of Congress of February 19, 1867, that Nelson I. Norton was by the greatest number of votes "regularly elected in accordance with the laws of this State" a Representative in Congress of the United States.

Dated at Albany, December 3, 1875.

DIEDRICH WILLERS, JR.,
Secretary of State.
NELSON K. HOPKINS,
Comptroller.
DANIEL PRATT,
Attorney-General.
THOMAS RAINES,
Treasurer.
S. H. SWEET,
State Engineer and Surveyor.

STATE OF NEW YORK,
Office of the Secretary of State, ss:

I certify that I have compared the foregoing with an original certificate filed in this office, and that the same is a correct transcript therefrom and of the whole of such original.

Given under my hand and seal of office, at the city of Albany, this 3d day of December, 1875.

DIEDRICH WILLERS, JR.,
Secretary of State.

Mr. WHEELER. For the purpose of getting some disposition made of this question I move that Mr. Norton be now sworn in.

Mr. COX. This is not a *prima facie* case, and I would move to amend so as to send the case to the Committee on Elections, when appointed. By the laws of New York, as my colleague very well knows, the votes have to be cast for Representative in Congress. I know it is a technical point, but the law of New York is specific on that point, and I think we had better refer the case to the Committee on Elections.

Mr. RANDALL. I would ask whether there is any antagonistic statement or any applicant for this seat as against this gentleman?

The SPEAKER. The Chair has not been advised of any.

Mr. HOSKINS. There is no contestant.

Mr. COX. There is no contestant. There is a desire to have the matter come before the Committee on Elections.

Mr. WHEELER. Every fact bearing upon the case is in the certificate which has just been read. There is no additional fact that can be adduced.

Mr. COX. Under the advice of gentlemen about me, and waiving all technicalities, I will withdraw any opposition to the gentleman being now sworn in, and will then ask that the subject be at once referred upon the statement made by the State board of canvassers.

Mr. WHEELER. There is no objection to that.

The SPEAKER. There being no opposition, the gentleman will now present himself and be sworn in.

Mr. NORTON then came forward and was sworn in, taking the test-oath of July, 1862.

Mr. COX. I suppose this paper will now be ordered to be referred to the Committee on Elections, when appointed.

The SPEAKER. The Chair hears no objection, and it will be so ordered.

SWEARING IN OF DELEGATES.

The SPEAKER. The Clerk will now call the roll of Delegates elected to this House, and those who are present will be sworn in.

The roll of Delegates was called, and the following gentlemen came forward and were sworn in, taking the test-oath of July, 1862:

New Mexico—Stephen B. Elkins.
Utah—George Q. Cannon.
Washington—Orange Jacobs.
Colorado—Thomas M. Patterson.
Dakota—Jefferson P. Kidder.
Arizona—Hiram S. Stevens.
Idaho—Thomas W. Bennett.
Montana—Martin Maginnis.
Wyoming—William R. Steele.

ORDER OF BUSINESS.

Mr. LAMAR. In order to facilitate the organization of this House and to save the time which would necessarily be consumed by the separate election of the remaining officers that are necessary to complete that organization, I have prepared a resolution which I believe

is somewhat in accordance with usage. Before sending it to the Clerk's desk to be read, I am informed that the Clerk has some reports to make, which should be made before this part of the organization of the House is completed. I will therefore suspend for that purpose.

REPORTS FROM CLERK'S OFFICE.

Reports from the Clerk's office of the House of Representatives were then read, laid upon the table, and ordered to be printed, as follows:

Of payments and issues for the fiscal year ending June 30, 1875, classified in papers marked A, B, C, D, and E;

Of the receipts and expenditures of the Clerk's office from June 30, 1875, to the expiration of his term of office;

In reference to the erection of monuments in Congressional Cemetery to those Representatives who have died while in office;

An index and summary of the reports of the commissioners of southern claims in cases reported to Congress as disallowed;

Of payments made by the Clerk during the late recess of Congress to members elected to the Forty-fourth Congress;

In relation to the testimony taken before the Committee on Ways and Means upon the question of the corrupt use of money to procure the passage of an act providing for an additional subsidy in the China mail service.

ORGANIZATION OF THE HOUSE.

Mr. LAMAR. I now send to the Clerk's desk to be read the resolution I indicated a few moments since. I presume some gentleman on the other side will move an amendment, and of course the question will first be taken on the amendment. I ask, as a mere matter of information, if it is the wish of gentlemen on the other side to call for the yeas and nays?

Mr. WHEELER and Mr. GARFIELD. No.

Mr. LAMAR. We are willing to have them called, if required. I ask that my resolution be now read.

The Clerk read as follows:

Resolved, That Hon. George M. Adams, a citizen of the State of Kentucky, be and is hereby elected Clerk of the House of Representatives of the Forty-fourth Congress; that John G. Thompson, of the State of Ohio, be and is hereby elected Sergeant-at-Arms of the House of Representatives of the Forty-fourth Congress; that Lafayette Henry Fitzhugh, of the State of Texas, be and is hereby elected Doorkeeper of the House of Representatives of the Forty-fourth Congress; that James M. Stewart, of the State of Virginia, be and is hereby elected Postmaster of the House of Representatives of the Forty-fourth Congress; and that Rev. I. L. Townsend, of the District of Columbia, be and is hereby elected Chaplain of the House of Representatives of the Forty-fourth Congress.

Mr. WHEELER. I move to amend the resolution of the gentleman from Mississippi [Mr. LAMAR] by striking out the portion naming the candidates, with the respective offices for which they are nominated, and inserting in lieu thereof the following:

For Clerk of the House of Representatives, Forty-fourth Congress, Edward McPherson, of Pennsylvania; for Sergeant-at-Arms, Nehemiah G. Ordway, of New Hampshire; for Doorkeeper, Otis L. Buxton, of New York; for Postmaster, Henry L. Sherwood, of Michigan; for Chaplain, Rev. J. G. Butler, D. D., of the District of Columbia.

Mr. LAMAR. I move the previous question on the original resolution and the amendment.

The SPEAKER. The Chair would inquire of the gentleman from Mississippi [Mr. LAMAR] whether it is necessary to move the previous question.

Several MEMBERS. O, no.

Mr. LAMAR. I withdraw the call for the previous question.

The amendment of Mr. WHEELER was not adopted.

The resolution of Mr. LAMAR was then agreed to.

Mr. LAMAR moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The SPEAKER. The officers just elected, if in attendance, will now present themselves at the bar of the House to take the oath of office.

Mr. Adams, Mr. Thompson, Mr. Fitzhugh, and Mr. Stewart presented themselves, and were duly qualified, the two former taking the test-oath prescribed by the act of July 2, 1862; the two latter, the modified oath provided by the act of July 11, 1868.

NOTIFICATION OF ORGANIZATION.

Mr. HOLMAN. I move the adoption of the following resolution:

Resolved, That a message be sent to the Senate to inform that body that a quorum of the House of Representatives has assembled, and that MICHAEL C. KEHR, one of the Representatives from the State of Indiana, has been chosen Speaker, and that the House is now ready to proceed to business.

Mr. GARFIELD. Allow me to suggest that this resolution ought to include a notification of the election of the Clerk. It is important the Senate should be informed of his election.

Mr. HOLMAN. That is not the usual form, although I see no objection to it.

The SPEAKER. The Chair understands it is usual to include a notification of the election of Clerk.

Mr. HOLMAN. The practice is not uniform; but I see no objection to the suggestion. Let the resolution be so modified.

The resolution, as modified, was adopted.

Mr. COX submitted the following resolution; which was read, considered, and agreed to:

Resolved, That a committee of three be appointed on the part of the House, to join such committee as may be appointed on the part of the Senate, to wait on the President of the United States and inform him that a quorum of the two Houses has assembled and that Congress is ready to receive any communication he may be pleased to make.

RULES OF THE HOUSE.

Mr. RANDALL. I submit the following resolutions:

Resolved, That the rules of the House of Representatives of the Forty-third Congress shall be the rules of the House of Representatives until otherwise ordered, except Rule 166 and Rule 167.

Resolved further, That a committee of five, to consist of the Speaker and four members, to be named by him, be appointed, to whom shall be referred the rules of the House, who shall report all such amendments or revisions of the same as they shall think proper, and such reports shall always be in order to be made.

Mr. GARFIELD. I rise to a point of order.

Mr. RANDALL. I demand the previous question.

Mr. GARFIELD. I rise to a point of order. I object to the resolution under the existing rules, which are our rules without a declaration of this sort.

Mr. RANDALL. I submit that both these resolutions are strictly in order. I propose that we adopt the rules of the last House, with the exceptions stated. As to the second resolution, I will say there is no rule providing for the appointment of a Committee on Rules. The gentleman from Ohio [Mr. GARFIELD] is therefore mistaken on this point.

Mr. GARFIELD. That particular point is not what I object to. I object to the first branch of the gentleman's resolutions, on the ground of immemorial usage.

Mr. RANDALL. The gentleman has a perfect right to object by voting against the resolutions, but in no other manner.

Mr. GARFIELD. I submit that this is not a privileged question.

The SPEAKER. Does the gentleman make that point of order?

Mr. GARFIELD. I do.

The SPEAKER. The Chair overrules it, on the ground that the Constitution clearly gives to each House the right to adopt its own rules. Whatever may have been the rules or orders of a preceding House in reference to this matter, they cannot supersede the constitutional right of this House to adopt its own rules.

Mr. RANDALL. The Speaker is clearly right.

Mr. GARFIELD. I submit that these resolutions should be referred to the Committee on Rules when appointed.

Mr. RANDALL. There is no rule of this House, and there was no rule of the last House, by which a Committee on Rules can be appointed. It is only by a resolution of this character that the Speaker can be authorized to appoint a Committee on Rules.

Mr. GARFIELD. The gentleman will find that immemorial usage is in itself a rule.

Mr. RANDALL. Immemorial usage will do for that side of the House, but we mean to have strict construction of the rules. [Laughter.] For the information of the House, let the rules excepted be read, and then I shall demand the previous question on the adoption of my resolution, unless some gentleman on that side of the House may desire to speak. I ask the Clerk to read the two excepted rules.

The Clerk read as follows:

166. All motions to suspend the rules, except where they may be suspended by a majority, shall, before being submitted to the House, be seconded by a majority, as in the case of the previous question.—January 20, 1874.

167. Whenever a question is pending before the House, the Speaker shall not entertain any motion of a dilatory character except one motion to adjourn and one motion to fix the day to which the House shall adjourn. But the previous question on the engrossment and third reading of any bill or joint resolution shall not be ordered during the first day of its consideration unless two-thirds of the members present shall second the demand: *Provided*, That this rule shall not apply to House resolutions offered in the morning hour of Monday: *And provided further*, That it shall not apply to any proposition to appropriate the money, the credit, or other property of the United States, except the regular annual appropriation bills.—February 1, 1875.

Mr. RANDALL. I now demand the previous question on the adoption of my resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. RANDALL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DRAWING FOR SEATS.

Mr. CLYMER. I beg leave to submit the following resolution:

The Clerk read as follows:

Resolved, That the Clerk of the House shall at one o'clock p. m. to-morrow place in a box the name of each Member and Delegate of the House of Representatives, written upon a separate slip of paper; that he proceed in the presence of the House to draw from said box, one at a time, the said slips of paper, and as each is drawn he shall announce the name of the member or Delegate upon it, who shall choose his seat for the present Congress: *Provided*, That before said drawing shall commence the Speaker shall cause each seat to be vacated, and shall see that every seat continues vacant until it is selected under this order; and that every seat, after having been selected, shall be deemed forfeited if left unoccupied before the call of the roll is finished.

Mr. SAYLER. I ask the gentleman from Pennsylvania to yield to me for a moment.

Mr. CLYMER. For what purpose?

Mr. SAYLER. I would suggest to the gentleman that the courtesy which has been always extended to the member of longest continuous service of selecting his own seat be extended in this instance, and for that purpose there ought to be an amendment of the resolution.

Mr. CLYMER. I make reply to the gentleman that it has never been done except by unanimous consent, which is always asked after the adoption of the resolution.

Mr. SAYLER. I think it has not been after the adoption of the resolution. It is certainly within my experience, which is to the extent of one time, the same exception was made, and I hope it will be made now. I make the further suggestion that the seat occupied by Mr. Stephens, of Georgia, be reserved for him, in view of the condition of his health.

Mr. CLYMER. In reply, I will remark that if the gentleman will examine the proceedings of the last Congress he will find a resolution precisely in form such as this was adopted, and that subsequent to its adoption the House, by unanimous consent, gave the gentleman from Massachusetts, [Mr. DAWES,] who had been longest in continuous service, choice of a seat, and by unanimous consent subsequently gave Mr. Stephens, of Georgia, the seat he occupied. I propose to ask for such indulgence both to the member of longest continuous service and to the gentleman from Georgia, [Mr. Stephens.] I move the previous question.

The SPEAKER. Does any one object to the motion being put without the previous question?

There was no objection.

The resolution was adopted.

COMMITTEE TO WAIT ON THE PRESIDENT.

The SPEAKER announced the following committee to wait upon the President of the United States under the resolution adopted this day: Mr. COX of New York, Mr. KNOTT of Kentucky, and Mr. BLAINE of Maine.

And then, on motion of Mr. HOLMAN, (at ten minutes to five o'clock p. m.,) the House adjourned.

IN SENATE.

TUESDAY, December 7, 1875.

AARON H. CRAGIN, a Senator from the State of New Hampshire, GEORGE GOLDTHWAITE, a Senator from the State of Alabama, and A. S. MERRIMON, a Senator from the State of North Carolina, appeared in their seats to-day.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

CREDENTIALS.

Mr. EATON presented the credentials of James E. English, appointed by the governor of the State of Connecticut a Senator from that State to fill, until the next meeting of the Legislature thereof, the vacancy caused by the death of Orris S. Ferry.

The credentials were read; and the oaths prescribed by law having been administered to Mr. ENGLISH, he took his seat in the Senate.

MESSAGE FROM THE HOUSE.

Mr. GEORGE M. ADAMS, Clerk of the House of Representatives, appeared below the bar of the Senate and said:

Mr. President, I am directed by the House of Representatives to inform the Senate that a quorum of the House of Representatives has assembled, and that MICHAEL C. KERR, one of the Representatives from the State of Indiana, has been chosen Speaker, and GEORGE M. ADAMS, of Kentucky, Clerk; and the House is ready to proceed to business.

I am further directed to inform the Senate that a committee of three has been appointed on the part of the House, to join such committee as may be appointed on the part of the Senate, to wait upon the President of the United States and to inform him that a quorum of the two Houses has assembled and that Congress is ready to receive any communication he may be pleased to make; and that Messrs. SAMUEL S. COX of New York, J. PROCTOR KNOTT of Kentucky, and JAMES G. BLAINE of Maine have been appointed as such committee on the part of the House.

RECESS.

Mr. FRELINGHUYSEN, (at twelve o'clock and fifteen minutes p. m.) I move that the Senate take a recess until one o'clock.

The motion was agreed to; and at the expiration of the recess the Senate reassembled.

PRESIDENT'S ANNUAL MESSAGE.

Mr. ANTHONY. Mr. President, the joint committee appointed to wait upon the President of the United States and inform him that the two Houses of Congress had organized for the transaction of business and were ready to receive any communication he might have to make to them have performed that duty, and the President replied that he would communicate to the two Houses immediately in writing.